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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,038	02/09/2001	Jeff Nodorft	0-11A	1599
7590	06/29/2004		EXAMINER	
James A. Flight, Esq. Marshall, O'Toole, Gerstein, Murray & Borun 233 South Wacker Drive Chicago, IL 60606-6402			LUGO, CARLOS	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/781,038	NODORFT, JEFF
	Examiner Carlos Lugo	Art Unit 3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 April 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,3-5,7-13,15,19-38,40-42,46-50 and 52-64 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,4,5,7,11-13,15,21-23,25-27,34-38,40,46,48-50,52-56 and 62-64 is/are rejected.
- 7) Claim(s) 3,8-10,19,20,24,28-33,41,42,47 and 61 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 09 February 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

1. This Office Action is in response to applicant's RCE filed on April 19, 2004.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1,4,5,7,11-13,15,22,23,25-27,35-38,40,46,48-50,52,54 and 55 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 2,703,247 to Wolf et al (Wolf).

Regarding claims 1,22 and 23, Wolf discloses a door latching system comprising a latch assembly (76,78 and 78) being moveable from a maintained release position to a door blocking position in response to movement of the door.

The latch assembly is able to remain in the maintained release position to allow at least one door panel to travel past the latch assembly, and in response to further movement of the door panels, the latch assembly subsequently moves to the door blocking position to obstruct closing movement of the plurality of door panels.

A traveling member (126) is mounted to the door panel such that the traveling member is able to engage the latch member as the plurality of door panels move from a closed to an open position (Figure 5). The traveling member engages the latch assembly and mechanically moves the latch assembly from the maintained release position to the door blocking position.

As to claims 4,5,25,26,48 and 49, Wolf discloses that the system further includes a releasing member (102 and 106) coupled to the latch assembly to move the latch assembly from the door blocking position to the maintained release position upon manual manipulation of the release member (by 124).

As to claims 7 and 27, Wolf discloses that the latch assembly further includes a latch member (88) that moves substantially linearly between the maintained release position and the door blocking position.

As to claims 11-13, Wolf discloses that the system further includes an actuating member (102 and 106) that moves the latch assembly between the door blocking position and the maintained release position (by 124).

As to claim 15, Wolf discloses that the latching system further includes a sensing member (at 92).

As to claims 35-37, wolf discloses a method of operating a sectional door.

As to claims 38,40,46,54 and 55, Wolf discloses a door latching system comprising a latch assembly (76,78 and 78) being moveable from a maintained release position to a door blocking position in response to movement of the door.

The latch assembly is able to remain in the maintained release position to allow at least one door panel to travel past the latch assembly, and in response to further movement of the door panels, the latch assembly subsequently moves to the door blocking position to obstruct closing movement of the plurality of door panels.

The system further includes a sensing member (at 92) and an actuating member (102 and 106).

A traveling member (126) is mounted to the door panel such that the traveling member is able to engage the latch member as the plurality of door panels move from a closed to an open position (Figure 5). The traveling member engages the latch assembly and mechanically moves the latch assembly from the maintained release position to the door blocking position.

As to claims 50 and 52, Wolf discloses that the latch member (88) moves in response to the movement of the sensing member (92).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 21,34,53,56 and 62-64 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 2,703,247 to Wolf et al (Wolf) in view of US Pat No 1,908,165 to Moler.

Wolf fails to disclose that the latching system further includes a second latching assembly to inhibit the door from moving to the open position.

Moler teaches that it is well known in the art to have a door latching system with two latch assemblies (14 and 16), wherein one of them (16) inhibits the door from moving to the open position.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a second latching assembly, as taught by Moler, into a

device as described by Wolf, in order to inhibit the door from moving to the open position.

***Allowable Subject Matter***

6. **Claims 3,8,19,24,28,33,41,42,47 and 61 objected to** as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 9,10,20,29-32 would be allowed because the claims depend from claim 8,19,28.

**Reasons For Allowable Subject Matter**

7. The following is an examiner's statement of reasons for allowable subject matter:

Claims 3,8,19,24,28,33,41,42,47 and 61 present allowable subject matter over the prior art of record because the teachings of the references taken as a whole do not teach or render obvious the combination set forth, including that the latch assembly in the door blocking position obstructs downward movement of the door panels by engaging a guide roller associated with the door panels (claims 3,24,47 and 61); that the sensing member is pivotally mounted within the latch assembly (claims 8,19,28 and 41); that the traveling member is pivotally mounted to the door panels (claim 33) and that the latch member moves linearly (claim 42).

As to claims 3,24,47 and 61, Wolf fails to disclose that the latch assembly in the door blocking position obstructs downward movement of the door panels by engaging a guide roller associated with the door panels. Wolf discloses that the latch assembly only engages the traveling member, not the guide roller (48).

As to claims 8,19,28 and 41, Wolf discloses that the latch assembly further includes a sensing member (92), however, Wolf fails to disclose that the sensing member is pivotally mounted within the latch assembly. Wolf discloses that the sensing member (92) is part of the latch member.

As to claim 33, Wolf fails to disclose that the traveling member is pivotally mounted to the door panels. Wolf discloses that the traveling member (126) is only mounted, does not pivot.

As to claim 42, Wolf fails to disclose that the latch member moves linearly. Wolf discloses that the latch member pivots or substantially linearly.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### ***Response to Arguments***

8. Applicant's arguments, see Pages 10-13, filed on April 19, 2004, with respect to the rejection of the claims in view of Forehand (US 5,533,561) have been fully considered and are persuasive.

The current amendment, establishing that the traveling member engaging the latch assembly mechanically moves the latch assembly overcomes the rejection in view of Forehand, because in Forehand invention, the traveling member 95 will create an automatic movement, by switching the switch 85 and 87, to send a signal

in order to move the latch assembly. Therefore, the rejection of the claims in view of Forehand has been withdrawn.

However, a new rejection has been made in view of Wolf and further in view of Wolf, as modified by Moler.

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

Carlos Lugo  
AU 3677

June 17, 2004.



GARY ESTREMSKY  
PRIMARY EXAMINER